

The 26th November/6th December, 1976

No. 7416-4Lab-76/33052. In pursuance of the provisions of section 17 of the Industrial Disputes Act 9147 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Marwaha Industries, 14/3, Mathura Road, Faridabad.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 26 of 1976

between

SHRI RAMESH CHANDER GAUTAM, WORKMAN AND THE MANAGEMENT OF
M/S MARWAHA INDUSTRIES, 14/3, MATHURA ROAD, FARIDABAD

AWARD

This award shall dispose off references Nos. 26 to 30 all of 1976 in respect of the following dispute referred to this Tribunal by the Governor of Haryana, for adjudication in exercise of the powers conferred on him, — *vide* clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, between Ramesh Chander Gautam/Mohamed Yakoob/Tej Pal Singh/Rattan Lal, and Chhutan Singh and the management of M/s Marwaha Industries, 14/3, Mathura Road, Faridabad, separately;

Whether the termination of services of Shri Ramesh Chander Gautam, Mohmed Yakoob/Tej Pal Singh, Rattan Lal and Chhutan Singh was justified and in order? If not, to what relief is he entitled?

Shri Roshan Lal Sharma, authorised representative for the workman, made a statement in each reference before me on 16th July, 1976, that he had no instructions from the workman and that he could not trace him despite best search. It would thus appear that the workman is not interested in pursuing the demand raised by him on the management leading to this reference and that there is now no dispute between the parties requiring adjudication.

I hold accordingly and answer each reference while returning the award in these terms.

Dated the 17th July, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 911, dated 17th July, 1976

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.
Dated the 17th July, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 3011-4Lab-76/33054. In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/S. Supreme Steel Rolling and Allied Industries, Bahadurgarh.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA
ROHTAK

Reference No. 19 of 1973

between

Shri Sabha Patti workman and the management of M/S. Supreme Steel Rolling and Allied Industries, Bahadurgarh.

AWARD

By order No. 1D/RK/209-E-72/101268, dated the 13th March, 1973 the Governor of Haryana, referred the following dispute between the management of M/S. Supreme Steel Rolling and Allied Industries, Bahadurgarh

and its workman Shri Sabha Patti to this Labour Court, in exercise of the power conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Sabha Patti was justified and in order? If not to what relief is he entitled?

The parties put in their appearance in this court in response to the usual notices of references sent to them and filed their pleadings.

The workman alleged vide statement of claim filed by him that the management on 20th October, 1972 without assigning any reason and serving any charge sheet on him shut his entry in the factory with a malafide intention of victimising him due to trade union activities and that he was as such entitled to reinstatement, as a Tonga, the job held by him on the date of termination of his services on wages of Rs. 250 per mensem for the last one year.

The management while denying the allegations of the workman pleaded that the later had only been employed on a casual basis at the rate of Rs. 10 per mensem, during the month of October, 1972 and that he worked only for 12 days and that he was paid of on a request made by him. The management pleaded in the alternative that even if it be assumed that the services had been terminated, he was not entitled to reinstatement on account of his being a casual worker.

The workman controverted the pleas of the management while reiterating the allegations made in the claim statement vide rejoinder filed by him, with the result that the following issues were framed vide order dated 5th September, 1973.

- (1) Whether it is a case of self abandonment of service by the workman concerned? If so, the with what effect?
- (2) Whether the termination of services of Shri Sabha Patti was justified and in order? If not, to what relief is he entitled?

I have heard the authorised representatives for the parties with reference to the evidence led by them I decide the issues as under :—

The management in order to prove issues Nos. 1 and 2 examined their clerk Shri Harbans Lal as M. W. 1 who deposed with reference to the attendance register of their employees for the year 1972 that the workman Sabhapatti joined services on temporary basis and worked only for 12 days as a Tongaman. He added that on the refusal of the management to pay him an advance of a sum of Rs. 50 asked for by him, he voluntarily asked for being relieved and clearance of his account and a sum of Rs. 120 was accordingly paid to him vide voucher Exhibit M-1 in full and final settlement of his claims.

On a suggestion made to this witness in cross-examination as to whether the management took up the plea of the workman having joined their service only on 3rd October, 1972 before the Conciliation Officer he gave out that he did not remember this fact even though he had appeared in the conciliation proceedings on behalf of the management, such an evasive reply in my opinion led to an conclusion that no such plea was taken by the management before the Conciliation Officer and this circumstance by itself led to a further conclusion that this plea now taken is false and fabricated. This conclusion is found further corroborated by the report of the Conciliation Officer Exhibit W-1 indicating absence of such a plea on behalf of the management and on the other hand showing their inconsistent stand during conciliation proceedings in respect of the workman having been their employee for the last 3/4 months intermitently.

The workman in rebuttal examined Shri Vishan Dass Assisant of the office of the Labour Commissioner, Haryana, who deposed with reference to the official record relating to a general demand raised by the workman on the management, that the letter of Authority dated 25th July, 1972, contained in it, purported to be signed by Sabhapatti workman in favour of one Shri R. S. Dahyia, authorising him to raise the demand. Shri Fathe Singh, Labour Inspector, Bahadurgarh W. W. 2 another witness examined by the workman deposed with reference to the record brought by him, that a complaint in writing dated 13th September, 1972 copy Exhibit W-1/A had been received in the office of the Labour Inspector on 14th September, 1972. The persual of the complaint disclosed that Shri R. S. Dahyia made a grievance to the Labour Inspector about the management having not entered the names of the workman including that of Sabhapatti the workman concerned in the register of employees. Such a plea found expressly taken as forback as on 13th September, 1972 vide complaint Exhibit W-1/A taken together with the proved circumstances of Sabhapatti having executed the authority in favour of Shri Rajinder Singh Dahya on 25th July, 1972, fully established the falsity of the plea of the management that Shri Sabhapatti was employed only on 3rd October, 1972.

Coming now to determination of the important question relating to the abandonment of the job by the workman himself the management in this connection relied on the voucher Exhibit M-1 purporting to disclose a payment of Rs. 120 to the workman on 16th October, 1972 in full and final satisfaction of his account till that

date. The workman however explained that he had received only Rs. 20 vide voucher Exhibit M-1 by way of an advance money and not Rs. 120. On a careful perusal of this voucher I find that the '1' figure seems to have been written with a different ink before the figure '20' so as to make it 120 from 20 and the writing 'Advance Account' seems to have been scored and a different writing relating to full and final settlement substituted in its place subsequently. I have thus not the least hesitation in holding that the management made material alteration in the Voucher Exhibit M-1 so as to render as in respect of full and final settlement of the account of the workman from that of a voucher of an advance of a sum of Rs. 20 only. Such a scrutiny of the voucher seems to have been made by Shri Kanwal Singh, Labour Officer also on 15th November, 1972 during some enquiry. It can not therefore be said that the workman was relieved on a request made by him with payment to him of a sum of Rs. 120 in full and final settlement of his account. The circumstances that the management did not send any reply of the notice of demand Exhibit M-3 received by them lends further corroboration to the findings of facts made by me.

Considered from any angle the management have miserably failed to substantiate their pleas covered by issue Nos. 1 and 2 which are hereby decided against them. The result is that the workman is entitled to reinstatement with continuity of service and full back wages. I accordingly answer the reference while returning the award in terms of the findings made by me.

Dated the 19th March, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 742, dated the 19th March, 1976.

Forwarded (four copies) to the Secretary to government, Haryana. Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 4873-4Lab-76.33060.- In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the Management of M/S Plasser and Theurer Railway Machinery Manufacturers, Gurukul Indra Prastha, Mathura Road, Faridabad.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA
FARIDABAD

Reference No. 176 of 1974

Between

THE WORKMEN AND THE MANAGEMENT OF M/S PLASSER AND THEURER RAILWAY
MACHINERY MANUFACTURERS, GURUKUL INDRA, PRASTHA, MATHURA ROAD, FARIDABAD

Award

By order No. ID/FD/74-36577 dated 7th November, 1974 the Governor of Haryana, referred the following dispute between the management of M/s Plasser and Theurer Railway Machinery Manufacturers, Gurukul Indra Prastha, Mathura Road, Faridabad and its workmen to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.)

Whether the workmen are entitled to dearness allowance? If so, with what details?

The parties put in their appearance in this Tribunal in response to the usual notices of reference sent to them and filed their pleadings giving rise to the following issues framed vide order dated 7th March, 1975.

(1) Whether the demand the subject matter of the present reference was first raised on the management before taking up the matter for conciliation? If not, with what defect?

(2) Whether the workmen are entitled to dearness allowance? If so, with what details?

I have heard some of the workmen Sarvshri Hari Om and others, and Shri K.P. Aggarwal, authorised representative for the management with reference to the evidence led by the parties. I decide the issues as under:—

Issue No. 1. In absence of any evidence of the workmen in support of this issue I hold that no demand was raised directly on the management before the matter was taken to the conciliation officer. I however, for

the reasons stated by me in detail in my order dated 10th October, 1975 made in reference between Shri S.C. Sethi and M/s Kirlosker Oil Engine, Mathura Road, Faridabad, hold that it was no longer necessary for the workmen to raise a demand directly on the management and for the later to reject it before the matter was taken to the Conciliation Officer in order to constitute an industrial dispute. I therefore decide this issue accordingly.

Issue No. 2. The workmen examined Shri Hari Om, a workman in service of the management as WW 1 and led no other evidence. Shri Hari Om deposed that the workmen were entitled to increase in the dearness allowance on account of the prices of the essential commodities having gone higher and that the financial position of the management was sound and they were making huge income every year by way of manufacturing Railway machineries. He added that the income of the management was on the increase every year.

He admitted that each one of the workmen was getting 30% of their basic wages as dearness allowance besides Milk allowance ranging from Rs 12 P.M. to Rs. 27 P.M.; Tea allowance at the rate of Rs 9 P.M. Washing allowance at the rate of Rs 4 P.M.; Attendance Bonus at the rate of Rs 10 P.M.; and an interim relief ranging from Rs 5 to Rs 7.50 P.M. He further admitted that each workman was being supplied two uniforms every summer and was paid bonus at the rate of 12 % of his annual wages during the year 1972 and 15 % of his annual wages during the year 1973 and received an amenity of recreational trip every year. He further admitted that each workman was granted an exgratia payment ranging from Rs 125 to Rs 150 P.M. on Diwali Festival each year.

It would appear from the admission made by Shri Hari Om workman, the only witness examined by the workman that each one of the workman is being paid allowances as referred to above besides dearness allowance of 30 % of his basic wages every month. The payment thus being made to the workman are not only sufficient but can safely be said to be hand some much above the standard maintained by other industries in the town of Faridabad. Not an iota of evidence could be led by the workman to establish their case for increase in the dearness allowance already paid to them. The more circumstance that the management was making good income or their financial position was sound does not justify increase in their dearness allowance particularly when the management are already paying to each one of their workman handsome allowance of different types besides sufficient dearness allowance at the rate of 30% of their wages.

The management corroborated their pleas that they were already paying hand some allowance to each one of their workmen and no increase in the dearness allowance was justified by examining Shri Y.N. Singh their Works Manager who deposed in terms of the admissions made by Shri Hari Om workman. I am thus satisfied that the workmen are not entitled to any increase in the dearness allowance over and above the dearness allowance paid to each one of them at the rate of Rs 30% of his wages. None of the workman is thus entitled to any relief. I accordingly answer the reference while returning the award in terms of these findings.

Dated the 12th May, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 597, dated the 13th May, 1976.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 13th May, 1976

MOHAN LAL JAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 6189-4Lab-76/33076.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s. Harbans Lal Prem Kumar Private Limited, 18/1, Mathura Road, Faridabad.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 43 of 1976

between

SHRI MOHINDER KUMAR SHARMA, WORKMAN AND THE MANAGEMENT OF
M/S. HARBANS LAL PREM KUMAR PRIVATE LIMITED, 18/1, MATHURA
ROAD, FARIDABAD

AWARD

Order No. ID/FD/834-B-75/6876, dated 13th February, 1976 of the Governor of Haryana, the following dispute between the management of M/s. Harbans Lal Prem Kumar Private Limited, Mathura Road, Faridabad and its workman Shri Mohinder Kumar Sharma, was referred to this Tribunal for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:--

Whether the termination of services of Shri Mohinder Kumar Sharma was justified and in order ?
If not, to what relief is he entitled ?

The parties put in their appearance before me in response to the usual notices of reference sent to them. The management, however, failed to put in their appearance on 11th June, 1976 the next date of hearing fixed in the case for filing of rejoinder of the workman, with the result that *ex parte* proceedings were taken against them on that date.

The workman appeared as his own witness in *ex parte* evidence and deposed that he being appointed as Press Operator with effect from 1st December, 1965 on wages of Rs. 190/- per mensem, by the management, the later terminated his services with effect from 1st October, 1975,—*vide* notice, copy where of was Ex. W. 1 affixed by them on the main gate, without assigning any reason and without holding any enquiry against him.

I see no reason to disbelieve the *ex parte* statement of the workman particularly when it is found corroborated by the notice Ex. W. 1 and the proceedings against the management are *ex parte*. I, therefore, relying on his statement hold that the termination of his services by the management with effect from 1st October, 1975 was unjustified and that he is entitled to reinstatement with continuity of service and full back wages.

I hold accordingly and answer the reference while returning the award in terms of the findings arrived at by me.

MOHAN LAL JAIN,

Dated the 17th June, 1976.

Presiding Officer,
Industrial Tribunal, Haryana.
Faridabad.

No. 701, dated 19th June, 1976

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Dated the 19th June, 1976.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 5885-4Lab-76/33143.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the Management of M/s. Rajender Weaving Factory, 14/4, Bahalgarh Road, Sonapat.

BEFORE SHRI MOHAN LAL JAIN PRESIDING OFFICER, LABOUR COURT, HARYANA
ROHTAK

Reference No. 70 of 1974

between

SHRI DHOKAL, WORKMAN AND THE MANAGEMENT OF M/S. RAJENDER WEAVING
FACTORY, 14/4, BAHALGARH ROAD, SONEPAT..

AWARD

By order No. ID/RK/139-74/34250-54, dated 5th October, 1974 of the Governor of Haryana, the following dispute between the management of M/s. Rajender Weaving Factory, Sonapat and its workman Shri Dhokal, was referred to this Court for adjudication, in exercise of the powers conferred under clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Dhokal was justified and in order ? If not, to what relief is he entitled ?

Parties put in their appearance before me in response to the usual notices of reference sent to them and filed their pleadings giving rise to the following issues framed by me,—*vide* order dated 5th March, 1976.

1. Whether the reference is bad in law for the reasons stated in preliminary objection No. 1 of the written statement ?
2. Whether it was necessary for the workman to serve a notice of demand directly on the management and for the later to reject it before the matter was taken to the Conciliation Officer, in order to constitute an industrial dispute ?
3. If yes, whether such a demand was directly made on the management by the workman and rejected by the later ?
4. Whether the termination of services of Shri Dhokal was justified and in order ? If not, to what relief is he entitled ?

The case was fixed for recording the evidence of management on 2nd June, 1976 when the workman absented himself despite being directed to appear on that date with the result that *ex parte* proceedings were taken up against him and *ex parte* evidence of the management was recorded.

The management relied upon an enquiry alleged to have been made by Shri P.N. Bhatia, their Manager into the chargesheet framed against the workman with an allegation that he did not attend to his job and most of his time in gossiping and wandering in the premises of the factory aimlessly without caring for the work, resulting in the loss of production and damaging of cloth.

The management examined Shri P. N. Bhatia who proved the chargesheet Ex. M. 1 and the proceedings of enquiry taken up by him against the workman Ex. M. 2 and his finding Ex. M. 3. It is, however, interesting to note that no evidence could be led by the management to prove that Shri P.N. Bhatia was ever appointed as an enquiry officer by the management and the later actually terminated his services. No orders were in other words brought on record showing the appointment of Shri Bhatia as an Enquiry Officer and the termination of services of the workman by the management. The enquiry made by Shri P.N. Bhatia into the aforesaid chargesheet and the findings made by him without proof of his appointment as Enquiry Officer are meaningless. I, thus, decided Issue No. 4 against the management with a finding that the termination of services of the workman was unjustified. The management do not propose to adduce evidence on merits of the case.

For the reasons stated by me in detail in my order dated 10th October, 1975 in a reference between Shri S.C. Sethi *versus* Kirlosker Oil Engines Ltd., Faridabad, I hold that it was no longer necessary for the workman to serve a notice of demand directly on the management and for the later to reject it before the former took the matter to the Conciliation Officer, in order to constitute an industrial dispute. I, therefore, decide issue No. 2 accordingly. Issue No. 3 need not be decided in view of my finding on issue No. 2.

No substantial evidence being led by the management on issue No. 1, the same is decided against them. The result is that the termination of services of the workman being un-justified, he is entitled to be reinstated with continuity of service and full back wages, till the date of closure, if any of the factory. He shall also be entitled to the benefits available to him as a result of closure of the factory.

I, thus, answer the reference while returning the award in these terms.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

Dated the 10th June, 1976.

No. 1461, dated the 14th June, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana,
Rohtak.